

Federal Communications Commission

DA 05-1478

May 31 4 50 PM '05

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Jackson and Charlotte, Michigan)

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MB Docket No. 05-35
RM-11134

REPORT AND ORDER
(Proceeding Terminated)

Adopted: May 25, 2005

Released: May 27, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it the *Notice of Proposed Rule Making* ("Notice")¹ issued in response to a Petition for Rule Making filed on behalf of Rubber City Radio Group ("Petitioner"), licensee of Station WJXQ(FM) ("WJXQ"), Jackson, Michigan. Petitioner seeks to reallocate Channel 291B from Jackson to Charlotte, Michigan and to modify the license of Station WJXQ accordingly. Petitioner filed comments in which it reiterated its intent to effectuate its proposal. Christian Broadcasting System, Ltd., ("Christian Broadcasting"), licensee of Station WLCM(AM) ("WLCM"), filed reply comments endorsing Petitioner's proposal. For the reasons stated below, we grant Petitioner's request to reallocate Channel 291B, from Jackson to Charlotte, Michigan, and modify the Station WJXQ license.

2. The *Notice* proposed that Channel 291B, Station WJXQ, Jackson, Michigan, be reallocated to Charlotte, Michigan, and that Station WJXQ's license be modified to reflect the change of community. This reallocation will facilitate the resolution of two related proposals now before the Commission. In MB Docket No. 03-222, Petitioner has proposed to modify the license of Station WQTX, Channel 224A, Charlotte, Michigan, by specifying operation on Channel 225A and by changing Station WQTX's community of license from Charlotte to Grand Ledge, Michigan.² In a related context, Christian Broadcasting, licensee of AM Station WLCM, Charlotte, has filed an application to change its community of license from Charlotte to Holt, Michigan (File No. BMJP-20050114ADQ). Favorable action on both of these proposals would result in the removal of local radio service from Charlotte. The instant proposal will ensure the continuation of local service at Charlotte. If the petition before us is granted, Petitioner will file an application to effectuate its proposal.

3. Petitioner made the foregoing reallocation request pursuant to Section 1.420(i) of the Commission's rules,³ which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.⁴ The proposed use of Channel 291B at Charlotte, Michigan, is mutually

¹ *Jackson and Charlotte, Michigan*, 20 FCC Rcd 2187 (MB 2005).

² *Charlotte and Grand Ledge, Michigan*, 18 FCC Rcd 21867 (MB 2003).

³ 47 C.F.R. § 1.420(i).

⁴ See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870

exclusive with Station WJXQ's existing authorization at Jackson, Michigan. In this regard, Station WJXQ does not propose to change its present transmitter site, which provides 70 dBu contour coverage of Charlotte, Michigan. Further, the allotment of Channel 291B to Charlotte would not deprive Jackson of its sole location transmission outlet, because Jackson would continue to be served by five local radio stations. In this instance, the reallocation will facilitate the related proposals which would enable the establishment of a first local transmission service by Petitioner at Grand Ledge, Michigan (2000 U.S. Census population of 7,813 persons) and a first local service to Holt, Michigan, Michigan (2000 U.S. Census population of 11,315 persons) by virtue of Christian Broadcasting's AM application. In light of all the relevant factors in this case, we find that changing the community of license of Station WJXQ from Jackson to Charlotte is in the public interest.

4. Consistent with the technical requirements of the Commission's rules, Channel 291B can be allotted to Charlotte, Michigan, utilizing Station WJXQ's present coordinates of 42-23-28 NL and 84-37-22 WL, with a site restriction of 30 kilometers (16.1 miles) southeast of Charlotte. Also, for the reasons stated in paragraph 4 of the *Notice*, we find that Station WJXQ may change its community of license because its short spacing to two stations are grandfathered and (a) no additional short spacing is created; (b) no existing short spacing is exacerbated; and (c) the potential for interference between currently short spaced stations is not increased. The Canadian Government has concurred in this allotment.

5. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

6. Accordingly, pursuant to the authority contained in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS ORDERED, That effective July 11, 2005, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED for the communities listed below, as follows:

<u>Community</u>	<u>Channel Number</u>
Charlotte, Michigan	224A, 291B
Jackson, Michigan	231B ⁵

7. IT IS FURTHER ORDERED, That the Petition for Rule Making filed by Rubber City Radio Group IS GRANTED.

8. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Rubber City Radio Group for FM Station WJXQ, Jackson, Michigan, IS MODIFIED to specify operation on Channel 291B at Charlotte, Michigan, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the permittee shall submit to the

(1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

⁵ Channel 283A has been inadvertently listed in 47 C.F.R. § 73.202(b), FM Table of Allotments under Jackson, Michigan, since October 1, 1995. We have no record that such an allotment has actually been made. Accordingly, we hereby delete Channel 283A from 47 C.F.R. § 73.202(b) under Jackson, Michigan. This action constitutes an editorial change in the FM Table of Allotments. Therefore, we find for good cause that a public notice and comment proceeding is unnecessary. *See* 5 U.S.C. § 553(b)(A) and (B).

Commission a minor change application for a construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

9. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (3)(l), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Rubber City Radio Group, licensee of FM Station WJXQ, is required to submit a rule making fee in addition to the fee required for the application to effectuate the change in community of license for FM Station WJXQ, Channel 291B, from Jackson, Michigan to Charlotte, Michigan, at the time it submits its Form 301 application.

10. IT IS FURTHER ORDERED that this proceeding IS TERMINATED.

11. For further information concerning the above, contact R. Barthen Gorman, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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Audio Division
Media Bureau